

The Honorable Richard A. Jones

UNITED STATES DISTRICT COURT FOR THE
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

UNITED STATES OF AMERICA,

Plaintiff,

v.

DANAVIAN HUNTER,

Defendant.

CASE NO. CR19-037RAJ

ORDER CONTINUING TRIAL
DATE AND PRETRIAL MOTIONS
DEADLINE

This matter came before the Court on January 22, 2021 on the Court's own motion for a status conference occasioned in part by defendant Danavian Hunter's request for appointment of new counsel, which the Court granted after a videoconference hearing held on December 18, 2020 (Dkt. # 49). At that time, the Court set said status conference so the parties could discuss a realistic trial date with the newly appointed counsel. Current defense counsel was appointed on December 22, 2020.

As set forth on the record at the status conference (Dkt. # 55), newly appointed defense counsel believes he cannot realistically be ready to try this matter before on or about August 2, 2021, and so moved the Court. The reasons for said continuance were discussed on the record, but included defense counsel's need to review the voluminous discovery in this matter, which is related to a much larger and long-term investigation involving multiple Title III wiretaps. Given that volume, it will take defense counsel a considerable amount of time to review the discovery, consider possible defense strategies and motions, and prepare

1 for trial. Defense counsel's ability to conduct this work is further hampered by the ongoing
 2 pandemic, which makes meeting in person with defendant for preparation a challenge.

3 In addition, and as discussed on the record, the pandemic itself also makes it difficult
 4 to conduct the trial for the foreseeable future, for the reasons set forth in this Court's General
 5 Orders addressing measures to reduce the spread and health risks from COVID-19, in
 6 particular GO 18-20, dated December 30, 2020, which is incorporated herein by reference.
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8 Based on the foregoing, the Court hereby FINDS as follows:

- 9 1. Newly appointed defense counsel will need a significant period of time to review
 10 the discovery in this matter, arrive at a defense strategy, and prepare any necessary
 11 motions and for trial. Conducting the trial before August 2, 2021 will
 12 unnecessarily deny counsel for the defendant the reasonable time necessary for
 13 effective preparation, taking into account the exercise of due diligence, within the
 14 meaning of 18 U.S.C. § 3161(h)(7)(B)(i) and (iv).
- 15 2. Separate and independent from defense counsel's need for additional time, a
 16 continuance of some length is also necessary due to the ongoing pandemic. In
 17 light of the recommendations made by the Centers for Disease Control and
 18 Prevention (CDC) and Public Health for Seattle and King County regarding social
 19 distancing measures required to stop the spread of this disease, the continuing
 20 spread of the virus, the slow progress of the vaccination effort, as well as the lack
 21 of the type of personal protective equipment necessary to ensure the health and
 22 safety of all participants it is not possible at this time to proceed with a jury trial.
- 23 3. Further, because of the recommendations that individuals at higher risk of
 24 contracting this disease –including individuals with underlying health conditions,
 25 individuals age 60 and older, and individuals who are pregnant – avoid large
 26 groups of people, at this time, it would be difficult, if not impossible, to get a jury
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pool that would represent a fair cross section of the community. Based on the recommendations it would also be medically inadvisable to do so.

4. As a result, the failure to grant a continuance of the trial date in this case would likely result in a miscarriage of justice. Pursuant to 18 U.S.C. § 3161(h)(7)(A), the ends of justice served by continuing the trial in this case outweighs the best interest of the public and the defendant to a speedy trial.
5. As set forth during the hearing, Mr. Hunter is unwilling to waive, in writing, his right to a speedy trial under the Constitution. However, it is the Court's understanding that Mr. Hunter was aware of newly appointed defense counsel's need for additional time – which was occasioned by Mr. Hunter's request to have new counsel appointed.

IT IS THEREFORE ORDERED the trial in this matter is continued to August 2, 2021.

IT IS FURTHER ORDERED that all pretrial motions, including motions in limine, shall be filed no later than June 24, 2021.

IT IS FURTHER ORDERED that the period time from the date of this order until the new trial date of August 2, 2021, shall be excludable time pursuant to 18 U.S.C. § 3161.

DATED this 29th day of January, 2021.



The Honorable Richard A. Jones
United States District Judge